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SUBJECT: UNMIK: TADIC AND HYSENI SPAR ON KOSOVO DURING
QUARTERLY UNSC DEBATE

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¶1. SUMMARY. Kosovo SRSG Lamberto Zannier told the Security Council during a January 22 quarterly debate that the security situation remained stable, but fragile, in northern Kosovo due to politicization of issues such as municipalelections and energy delivery. Serbian President Boris Tadic called for dialogue on political differences after an ICJ advisory opinion requested by the General Assembly on Kosovo's unilateral declaration of independence is issued (UDI), Tadic emphasized that Serbia would never recognize Kosovo. Kosovo Foreign Minister Skender Hyseni welcomed dialogue with Serbia, but emphasized that Kosovo's independence was irreversible and that reopening status discussions would destabilize the region. The U.S., UK, Austria and France called on Serbia not to interfere with Kosovo institutions. New Security Council members Gabon and Brazil made clear that they would not recognize Kosovo's UDI, and would look to the ICJ opinion to guide the way forward. Nigeria and Lebanon were more measured in their comments, while Bosnia and Herzegovina avoided political issues, focusing instead on technical aspects of the SYG's report. Russia, China, Japan and other Council members reiterated previously stated positions. END SUMMARY.

SRSG ZANNIER CITES STABLE BUT FRAGILE ENVIRONMENT

¶2. The Special Representative of the Secretary-General (SRSG) for Kosovo, Lamberto Zannier, delivered his quarterly report on the UN Interim Administration in Kosovo (UNMIK) during a January 22 debate. Zannier said UNMIK continued to play a valuable role in Kosovo promoting security, stability and respect for human rights. He noted that Kosovo's municipal elections, in which UNMIK played no role, were conducted peacefully and in an orderly manner. He added that while northern Kosovo Serbs did not participate in the elections in large numbers, Serbs south of the Ibar river participated in greater numbers than in the past, and had elected mayors and municipal governments which would allow them to play a "meaningful role in local administration" and would "increase the climate of reconciliation".

¶3. Zannier said northern Kosovo remained a flashpoint, and the security situation was tenuous, citing political, technical and legal disagreements about control of energy distribution as an example. The appointment by Serbian authorities of Serbian judges to the multi-ethnic courts in Mitrovica had led the Kosovo authorities to call for their dismantlement. The UN Administration in Mitrovica, he said, played an important facilitation role in northern Kosovo. Zannier recalled the low level of returns to Kosovo in absolute terms, and said it was due to a variety of factors, including the absence of economic prospects for returnees and concerns about freedom of movement and security. Zannier said Kosovo authorities had expressed an

openness to returns, but that more needed to be done. He called on Belgrade to reopen offices for the Kosovo Property Agency in Serbia. On the protection of cultural heritage, Zannier said UNMIK was ready to assist the efforts of an EU envoy.

TADIC CALLS KOSOVO INSTITUTIONS ILLEGITIMATE

¶4. Serbian President Tadic framed his remarks by recalling the General Assembly's request for an Advisory Opinion from the International Court of Justice (ICJ) on whether Kosovo's UDI was in accordance with international law. He said the ICJ opinion would be a "landmark case," and an opportunity to "find a way forward," which he suggested would need to involve negotiations on "all outstanding political differences." Referring to parallel Serbian structures in Kosovo, Tadic said the Serbian institutions were actually the legitimate ones, since they operated "under the overall authority of the UN." On the other hand, he said, the Kosovo institutions were not legitimate since they operated on the basis of Kosovo's UDI. Tadic likewise called Kosovo's recent municipal election "illegitimate" because "the SRSG did not call it, the OSCE did not monitor it, and the UN did not certify it." Tadic called for a "functional decentralization" that would be "acceptable to all stakeholders," and suggested that an organization such as the OSCE could create a "legitimate" decentralization package. Tadic said Serbia was open to the participation of Kosovo officials in regional fora, but only in the presence of UNMIK officials, who needed to speak first.

¶5. On the judiciary, Tadic cited differences over

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territorial jurisdiction of the court in Mitrovica, the ethnicity of judges and prosecutors, and the applicability of UNMIK law. On customs, he said differences remained over how revenues would be used to "benefit relevant communities." He defended Serbia's decision to provide electricity to northern Kosovo homes as averting a "humanitarian catastrophe." Tadic welcomed an EU facilitator to help resolve disputes over the protection of Serbian cultural heritage in Kosovo and expressed concerns about the transfer of responsibility for protection of some religious sites from KFOR to Kosovo authorities. He referred to the strategy document for northern Kosovo being prepared by the International Civilian Office (ICO) as a "final solution", and said its authors were playing into the hands of extremists who wanted to destabilize Kosovo. Tadic portrayed the recent refusal by Kosovo authorities to allow Serbian Minister for Kosovo Goran Bogdanovich to enter the country as a provocative act and a "denial of basic human rights."

HYSANI TAKES A HIGHER ROAD

¶6. Kosovo Foreign Minister Skender Hyseni focused on the progress that had been achieved in Kosovo in recent months. Hyseni said that 65 states had recognized Kosovo, and that the country had established diplomatic relations with 25 states. He listed bilateral treaties and agreements that Kosovo had entered into with its neighbors and reviewed the results of recent municipal elections and decentralization processes, citing statements by international observers that they had been orderly, democratic, and encouraging signs of the possibility for reconciliation. Hyseni said Kosovo placed its "full trust" in the ICJ to rule that Kosovo's UDI had not contravened a international law.

¶7. Hyseni said the security situation in Kosovo was stable,

but he accused Serbia of undermining the ongoing decentralization process by nominating Serbian judges and prosecutors for courts in Kosovo. He also noted that Kosovo institutions had been cooperating with the EULEX rule of law mission to combat crime and corruption. Hyseni affirmed that Kosovo independence was irreversible, and said that opening new status negotiations as Tadic had suggested would spark violence.

COUNCIL MEMBERS REITERATE KNOWN VIEWS

¶18. Council members to a large extent expressed previously known views on Kosovo. EU members UK, France and Austria, as well as Turkey, noted that Serbia's future lay with the EU, and that the EU role in Kosovo was growing. The UK pointed out that Serbia's continued efforts to disrupt Kosovo's independence served as a distraction to this objective, and called for Serbia and Kosovo to work toward reconciliation following the ICJ opinion. The UK also noted that the UN needed to continue to review the resources necessary to sustain UNMIK to ensure that they were "commensurate with its role." Similarly, France "deplored" Belgrade's unilateral decisions on Kosovo, which did not lead Serbia in the direction of the EU. Turkey emphasized that the future of Serbs in northern Kosovo lay with Kosovo, not Serbia. Austria called on Serbia to "renounce" parallel structures.

¶19. Russia fully supported the statement made by President Tadic, including the call to restart negotiations, the "illegitimacy" of Kosovo's elections, and concern about a "final solution" for the north. Mexico, Brazil and Gabon also said they did not support Kosovo's unilateral declaration of independence, and that they would be guided by the ICJ opinion. Uganda, Nigeria and Lebanon supported positive developments in Kosovo, including the municipal elections run by Kosovo, but caveated their support as being "within the status neutral framework" of SCR 1244. Bosnia and Herzegovina (BiH) avoided addressing political issues, welcoming efforts directed at returns, reconciliation and dialogue. BiH also welcomed the role of EULEX "in the context of the status neutral implementation of resolution 1244."

¶10. Ambassador DiCarlo noted the successful municipal elections and Kosovo's efforts to strengthen relations with its neighbors which demonstrated Kosovo's readiness to play a constructive regional role. She called for flexibility in defining a modus operandi to allow Kosovo to participate fully in regional and international mechanisms. Ambassador

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DiCarlo echoed the SYG's request to redouble efforts on returns and called on Serbia to accept UNHCR's offer to reestablish a presence. She offered support for EU efforts to help resolve outstanding issues related to religious and cultural heritage. DiCarlo said illegal Serbian parallel institutions threatened stability in northern Kosovo, and urged Serbia to look at the reconciliation taking place in other parts of Kosovo to the clear benefit of Kosovo's Serbs.

RIGHTS OF REPLY

¶11. As has become typical in the quarterly debates on UNMIK, both Serbia and Kosovo asked for the right of reply. President Tadic thanked the 127 states that had not recognized Kosovo and said it was "deeply disappointing and incredibly shocking" that Hyseni had said reopening status talks could provoke a new conflict. Tadic called this a "direct threat" and an example of the "destabilizing consequences of UDI." He also recalled recent statements

by President Mesic of Croatia related to Bosnia and Herzegovina (BiH), and said that Serbia fully supported the sovereignty and territorial integrity of BiH. Foreign Minister Hyseni reiterated that new negotiations over the status of Kosovo would be impossible, but offered to speak with Belgrade "any time, anywhere" to discuss matters of common interest. He also emphasized that Kosovo was committed to peace with its neighbors.

¶12. A complete transcript of the session is available under the heading "Meetings" on the Security Council page at the UN web site: www.un.org

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